

**NORTH APPLETON-MORGAN TRANSMISSION LINE PROJECT
DOCKET NO. 137-CE-166**

**PSCW Ninth Set of Data Request Items
Data Request No. 09.10 Response**

Data Request No. 09.10:

Define “crop” and “crop damage” referenced in the Data Request 05.08 Response. Further, if a landowner grows specialty crops, as defined by the U.S. Department of Agriculture (USDA), within the ROW such as berry plants, sugar bush trees, home gardens, etc., are these landowners compensated for their loss of revenue when these areas are no longer allowed to exist, or when these crops are damaged during initial construction or maintenance, within the ROW?

Response to Data Request No. 09.10:

ATC objects to this request to the extent this request asks for an interpretation of the legislature’s intent when it drafted Wis. Stat. § 182.017(7)(c). Further, ATC is currently engaged in litigation brought by an intervenor in this case, Zastrow-Hendrickson, in Outagamie County circuit court. That litigation materially involves the definition of “crop” and “crop damage,” terms used in the statute. It is ATC’s position that the Outagamie County circuit court is the proper forum to address the legal meaning of these terms in the context of the intervenor-landowner’s circumstances.

Notwithstanding these objections, ATC pays for crop damage consistent with Wis. Stat. § 182.017(7)(c)(7.), which requires ATC to “[p]ay for any crop damage caused by such construction or maintenance.” ATC works directly with the tenant and/or farmer to calculate crop damage payments and uses average yields and rates published by the Wisconsin Agricultural Statistics Service and USDA Custom Rates Survey for Wisconsin, for the particular county.

This Data Request Response was prepared by or at the direction of Teresa Kochaver.

Dated this 23rd day of January, 2015.

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